

IFW DAC

IN THE UNITED STATES PATENT OFFICE

July 26, 2004
700, 22 Frederick Street
P.O. Box 578
Kitchener, Ontario
N2G 4A2
(519) 579-3661 ext 326 phone
(519) 576-2030 fax

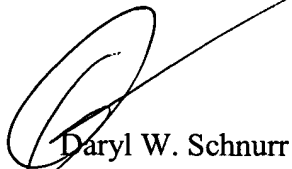
APPLICANTS : Witzel, Theodore A.
SERIAL NO. : 10/054,893
FILED : 01/25/02
TITLE : FLAVOR WAVE PLATE FOR BARBECUES AND
COMBINATION OF FLAVOR WAVE AND BARBECUE
EXAMINER : Alexander, Reginald, Art Unit 1761
TO: Commissioner of Patents and Trademarks
Washington, D.C.
20231

Attention: Mail Stop Petition

Dear Sirs:

We are writing to you enclosing a copy of our correspondence dated April 15, 2004. Since we forwarding this correspondence to you, we have not received any communication from you with respect to the above numbered Application. We would ask you to kindly provide us with a status report.

Yours very truly,


Daryl W. Schnurr
Reg. No. 28/569



IN THE UNITED STATES PATENT OFFICE

VIA COURIER

15 April 2004

P.O. Box 578
700, 22 Frederick Street
Kitchener, Ontario
N2G 4A2
(519) 579-3661

COPY

APPLICANT : WITZEL, Theodore A.
SERIAL NO. : 10/054,893
FILED : 01/25/2002
TITLE : Flavor Wave Plate for Barbecues and Combination
Of Flavor Wave Plate and Barbecue
EXAMINER : Alexander, Reginald L., Group Art Unit 1761
OUR FILE : 39452

To : Mail Stop Petition
Honourable Commissioner for Patents
Washington, D.C.
20231

Dear Sirs:

Enclosed herein please find the following documents:

1. Petition Under Rule 1.181 dated December 19, 2003 and Exhibits A, B, C and D to the Petition;
2. Letter to Milton Cano, Supervisory Examiner dated December 22, 2003;
3. Fax cover dated December 19, 2003;
4. Two fax cover sheets dated January 14, 2004 with our corresponding fax transmission reports indicating the transmissions were "complete";
5. Auto-Reply Facsimile Transmission report from the USPTO dated January 14, 2004 at 9:56 a.m. indicating receipt of the transmission;

We advise that numerous telephone calls were made to Examiner Alexander, Supervisory Examiner Milton Cano and the U.S. Patent Office attempting to obtain a correct facsimile number. Mr. Cano stated by telephone on or about December 19, 2003 that we could fax the Petition to him and he would take the Petition to the Office of Petitions. We then encountered great difficulty faxing the documents as the telephone numbers that we had for the U.S. Patent Office were in the process of changing. We attempted to fax the documents several times on December 19, 2003 and December 22, 2003 without success. We were successful in faxing the documents to Examiner Reginald Alexander on January 14, 2004. Our Fax Transmission of January 14, 2004 included the following documents (enclosed above):

- (a) Two fax covers of January 14, 2004;
- (b) Fax cover of December 19, 2003;
- (c) Letter of December 22, 2003 to Supervisory Examiner Milton Cano; and
- (d) Petition dated December 19, 2003 and Exhibits.

We have not heard from the Office of Petitions. We are therefore re-sending the documents including the Petition.

Yours very truly,

Daryl W. Schnurr
Reg. No. 28, 569
Agent for the Applicant



IN THE UNITED STATES PATENT OFFICE

SENT BY FACSIMILE TO (703) 872-9476

December 19, 2003
P.O. Box 578
700, 22 Frederick Street
Kitchener, Ontario
N2G 4A2
(519) 579-3660 phone
(519) 576-2030 fax

APPLICANTS : Witzel, Theodore A.
SERIAL NO. : 10/054,893
FILED : 01/25/2002
TITLE : Flavor Wave Plate for Barbecues and Combination
of Flavor Wave Plate and Barbecue
EXAMINER : Alexander, Reginald L., Group Art Unit 1761
DOCKET : 39452

PETITION TO THE COMMISSION UNDER RULE 1.181
PETITION FOR REVIVAL OF ABANDONED APPLICATION
OR A PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

Mail Stop Petition
Honourable Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

1. On November 10, 2003, we received a Notice of Abandonment of the above application dated October 20, 2003. A copy of the Notice is attached as Exhibit "A". The Notice of Abandonment is reportedly based on the Applicant's failure to timely file a proper Reply to the Office Letter mailed on March 13, 2003 as no Reply was apparently received.
2. A timely Reply was forwarded by fax to the U.S. Patent Office to the attention of

the Examiner on June 10, 2003 at approximately 4:14 p.m. We are in the same Eastern Standard Time Zone (i.e. at that time Eastern Daylight Time Zone) as the U.S. Patent Office. The fax was forwarded to fax number (703) 305-7718. A copy of the fax cover sheet dated June 10, 2003 and the attached Reply dated June 5, 2003 is attached as Exhibit "B". The fax number to which the fax was forwarded is the fax number shown on page 3 of the Office Letter as the fax number for regular communications.

3. We are enclosing a copy of a transmission report, which is automatically produced by our fax machine, indicating that the transmission to the fax number 703-305-7718 was completed and indicating the time at 4:14 p.m. The transmission report is attached as Exhibit "C" and includes a reduced copy of the fax cover dated June 10, 2003. The fax cover is signed by Susan Stasiuk who signed the Certificate of Facsimile Transmission. Susan Stasiuk was my Assistant who prepared the Reply pursuant to my instructions and faxed the Reply pursuant to my instructions.
4. Attached as Exhibit "D" is a copy of a letter dated August 5, 2003 to our client reporting that the Reply was forwarded to the U.S. Patent Office on June 10, 2003.
5. We did not receive a fax receipt from the U.S. Patent Office, but that is not unusual as we sometimes receive a fax receipt and we sometimes do not receive a fax receipt from the U.S. Patent Office.
6. The fax cover indicates that the original is sent by mail and Susan Stasiuk was instructed to send the cover and the reply by mail. Susan Stasiuk is no longer employed by us. We have been practicing before the U.S. Patent Office for many years and we believe that the fax transmission was received by the U.S. Patent Office, but was lost internally.
7. The application required relatively minor amendments to place the application in condition for allowance. The Reply made those amendments.
8. It is respectfully submitted that this Petition be granted without a Petition Fee being required. The fact that the faxed Reply was shown by the Patent Office as not being received was not the fault of the Applicant or us and the delay caused

by the loss of the Reply forwarded by fax to the Patent Office was unavoidable, or, alternatively we require that the holding of abandonment be withdrawn. We request that the Commissioner invoke the supervisory authority to place the application in the position it would have been in had the faxed Reply been recorded as received by the U.S. Patent Office.

All of which is respectfully submitted this 19th day of December, 2003.

A handwritten signature in black ink, consisting of a stylized 'D' followed by 'W. Schnurr', written over a horizontal line.

Daryl W. Schnurr
Reg. No. 28,569



Notice of Abandonment

Application No.

10/054,893

Examiner

Reginald L. Alexander

Applicant(s)

WITZEL, THEODORE A.

Art Unit

1761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 13 March 2003.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Reginald L. Alexander
Primary Examiner
Art Unit: 1761

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

EXHIBIT "B"

MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade Mark Agents



Fax Transmission Cover

700, 22 Frederick Street
P.O. Box 578
Kitchener, ON, Canada N2G 4A2
Tel: 519.579.3661 Ext. 326 (Direct)
Fax: 519.576-2030 (Direct)
www.millerthomson.com

DATE: June 10, 2003
TO: U.S. Commissioner of Patents, Reginald Alexander Examiner,
Group Art Unit 1761
FAX NO.: 703-305-7718
SUBJECT: Witzel-10/54,839 Our File 39452
FROM: Daryl W. Schnurr **DIRECT LINE:** 579-3661 ext 326
PAGES: 4 (INCLUDING THIS PAGE) **DIRECT FAX:** 519-576-2030
Please notify Susan at Ext. 386 immediately if all pages are not received

ORIGINAL WILL BE:

Placed on file ☐ Mailed to you ☒ Sent to you by courier ☐

COMMENTS:


CERTIFICATE OF FACSIMILE TRANSMISSION

Applicants: Witzel, Theodore A.. Serial No. 10/54,839

Filed: 01/25/2002

Title: Flavor Wave Plate for Barbecues and Combination of Flavor Wave Plate and Barbecue

I hereby certify that the paper attached hereto, being an amendment dated May 13, 2003, is being facsimile transmitted to the Patent and Trademark Office on the date shown below.


Susan Stasiuk

June 10, 2003

Toronto Vancouver Calgary Edmonton Markham Waterloo Region Whitehorse Washington, D.C.
Affiliations Worldwide

The following material is intended for use only by the individual to whom it is specifically addressed above and should not be read by, or delivered to, any other person. Such material may contain privileged or confidential information. If you have received this facsimile in error, please notify us immediately by calling the sender's direct line above (collect if necessary). We thank you in advance for your co-operation and assistance.



IN THE UNITED STATES PATENT OFFICE

SENT BY FAX TO 703-305-7718

June 5, 2003
P.O. Box 578
700, 22 Frederick Street
Kitchener, Ontario
N2G 4A2
(519) 579-3660 phone
(519) 576-2030 fax

APPLICANTS : Witzel, Theodore A.
SERIAL NO. : 10/054,893
FILED : 01/25/2002
TITLE : Flavor Wave Plate for Barbecues and
Combination of Flavor Wave Plate and
Barbecue
EXAMINER : Alexander, Reginald, Art Unit 1761
DOCKET : 39452

Honourable Commissioner for Patents
Washington, D.C. 20231

AMENDMENT

Dear Sir:

In response to the Office Action of March 13, 2003, please amend
the above identified application as follows:

IN THE CLAIMS

Claim 1 (original)

Claim 2 (original)

Claim 3 (original)

Claim 4 (original)

Claim 5 (original)

Claim 6 (original)

Claim 7 (original)

Claim 8 (original)

Claim 9 (currently amended): A flavor plate and barbecue in combination as claimed in Claim 8 wherein the plate has three inverted V-shaped sections with three peaks and two valleys, said plate having ~~another~~ an outer portion along each side, each of said outer portions sloping downward and outward, each of said outer portions having a plurality of second openings therein.

Claim 10 (original)

Claim 11 (currently amended): A flavor plate and barbecue in combination as claimed in Claim 8 wherein said ridges have a sloped surface, said sloped surface extending to a first opening that is adjacent to each ridge.

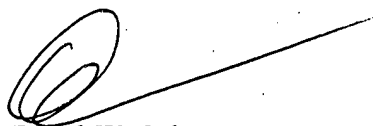
REMARKS

Applicant has amended Claims 9 and 11 in response to the Section 112 objection made by the Examiner by making Claims 9 and 11 dependent on Claim 8.

It is respectfully submitted that the amendments to Claims 9 and 11 answer the Section 102(b) objection by the Examiner.

It is therefore respectfully submitted that Claims 9 and 11 are now in condition for allowance.

Yours very truly,

A handwritten signature in black ink, consisting of a stylized 'D' followed by a long horizontal line extending to the right.

Daryl W. Schnurr
Reg. No. 28,569

EXHIBIT "C"

MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade Mark Agents

**Fax Transmission Cover**

700, 22 Frederick Street
P.O. Box 578
Kitchener, ON, Canada N2G 4A2
Tel: 519.578.3061 Ext. 328 (Direct)
Fax: 519.576.2030 (Direct)
www.millierthomson.com

DATE: June 10, 2003
TO: U.S. Commissioner of Patents, Reginald Alexander Examiner, Group Art Unit 1761
FAX NO.: 703-305-7718
SUBJECT: Witzel-10/54,839 Our File 39452
FROM: Daryl W. Schnurr **DIRECT LINE:** 579-3661 ext 326
PAGES: 4 **(INCLUDING THIS PAGE) DIRECT FAX:** 519-576-2030
Please notify Susan at Ext. 386 immediately if all pages are not received

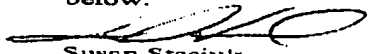
ORIGINAL WILL BE:Placed on file ☐Mailed to you ☒Sent to you by courier ☐**COMMENTS:****CERTIFICATE OF FACSIMILE TRANSMISSION**

Applicants: Witzel, Theodore A.. Serial No. 10/54,839

Filed: 01/25/2002

Title: Flavor Wave Plate for Barbecues and Combination of Flavor Wave Plate and Barbecue

I hereby certify that the paper attached hereto, being an amendment dated May 13, 2003, is being facsimile transmitted to the Patent and Trademark Office on the date shown below.


Susan Stasiuk
Toronto Vancouver Calgary

June 10, 2003

Edmonton

Markham

Waterloo Region

Whitehorse

Washington, D.C.

Affiliations Worldwide

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TRANSMISSION REPORT

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No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	7033057718	6-10- 3 4:14PM	0'59"	4/ 4	EC	COMPLETED 14400

TOTAL 0:00'59" 4

NOTE:

No. : OPERATION NUMBER 48 : 4800BPS SELECTED EC : ERROR CORRECT G2 : G2 COMMUNICATION
PD : POLLED BY REMOTE SF : STORE & FORWARD RI : RELAY INITIATE RS : RELAY STATION
MB : SEND TO MAILBOX PG : POLLING A REMOTE MP : MULTI-POLLING RM : RECEIVE TO MEMORY



IN THE UNITED STATES PATENT OFFICE

December 22, 2003
P.O. Box 578
700, 22 Frederick Street
Kitchener, Ontario
N2G 4A2
(519) 579-3660 phone
(519) 576-2030 fax

APPLICANTS : Witzel, Theodore A.

SERIAL NO. : 10/054,893

FILED : : 01/25/2002

TITLE : Flavor Wave Plate for Barbecues and Combination
of Flavor Wave Plate and Barbecue

DOCKET : 39452

Mail Stop Non Fee Amendment
Honourable Commissioner for Patents
Washington, D.C. 20231

ATTENTION: Milton Cano, Supervisory Examiner

Dear Sir:

We are writing to you further to our recent telephone conversation wherein you advised that you would pass the Petition in this matter on to the Commissioner on our behalf.

We are sending a copy of this Petition to you by mail, as we have been unable to forward it to you by facsimile transmission. The fax number in the most recent Office Action from the U.S. Patent Office is no longer accurate. When the fax number (703) 872-9476 is dialed, the operator provides a new facsimile number of (571) 273-1398. However several attempts to fax to this number have been unsuccessful. When this number is dialed we are advised that the number is not in service. We have attempted to

reach you by telephone and have a left a voice mail message for you. We have also attempted to reach Mr. Alexander by telephone, but his voice mail advises that he will be out of the office until December 29, 2003. We will forward this Petition to you by facsimile when we have an accurate fax number.

Thank you for your assistance in this matter. If you have any questions, please do not hesitate to contact our office.

Yours very truly,

Daryl W. Schnurr
Reg. No. 28,569

MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade Mark Agents

Fax Transmission Cover

700, 22 Frederick Street

P.O. Box 578

Kitchener, ON, Canada N2G 4A2

Tel: 519.579.3661 Ext. 326 (Direct)

Fax: 519.576-2030 (Direct)

www.millerthomson.com

DATE: December 19, 2003

TO: U.S. Commissioner of Patents, Milton Cano, Supervisory Examiner, Group Art Unit 1761

FAX NO.: ~~703-872-9476~~ 571-273-1398 571-273-1398

SUBJECT: Witzel- 10/054,893 Our File 39452

FROM: Daryl W. Schnurr **DIRECT LINE: 579-3661 ext 326**

PAGES: 11 (INCLUDING THIS PAGE) **DIRECT FAX: 519-576-2030**

Please notify Bonnie at Ext. 317 immediately if all pages are not received

ORIGINAL WILL BE:

Placed on file ☐

Mailed to you ☒

Sent to you by courier ☐

COMMENTS:

We are enclosing our Petition pursuant to Rule 1.181. We confirm that you have agreed to pass the Petition on to the Commissioner so that this application can be reinstated and the prosecution can proceed.

Toronto Vancouver Calgary Edmonton Markham Waterloo Region Whitehorse Washington, D.C.
Affiliations Worldwide

The following material is intended for use only by the individual to whom it is specifically addressed above and should not be read by, or delivered to, any other person. Such material may contain privileged or confidential information. If you have received this facsimile in error, please notify us immediately by calling the sender's direct line above (collect if necessary). We thank you in advance for your co-operation and assistance.

MILLER THOMSON LLP
Barristers & Solicitors, Patent & Trade Mark Agents

Fax Transmission Cover

700, 22 Frederick Street
P.O. Box 578
Kitchener, ON, Canada N2G 4A2
Tel: 519.579.5661 Ext. 326 (Direct)
Fax: 519.576-2030 (Direct)
www.millerthomson.com

DATE: January 14, 2004
TO: Reginald Alexander, Examiner, Group Art Unit 1761
FAX NO.: (571) 273-1395
SUBJECT: Application Serial # 10/054,893
FROM: Daryl W. Schnurr **DIRECT LINE:** 579-3661 ext 326
PAGES: 14 **(INCLUDING THIS PAGE) DIRECT FAX:** 519-576-2030
Please notify Bonnie at Ext. 317 immediately if all pages are not received

ORIGINAL WILL BE:

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COMMENTS:

Further to our telephone conversation earlier today, attached please find the Reply to the Office Action dated March 13, 2003, along with copies of our correspondence to you since we forwarded that Reply to you by fax on June 10, 2003. Could you please advise us of the status of the application once you have reviewed the attached documents. Thank you for your assistance. *Bonnie Alexander*

Toronto Vancouver Calgary Edmonton Markham Waterloo Region Whitehorse Washington, D.C.
Affiliations Worldwide

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TRANSMISSION REPORT

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TOTAL PAGES SCANNED : 14
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No.	REMOTE STATION	START TIME	DURATION	#PAGES	MODE	RESULTS
1	USPTO	1-14- 4 9:45AM	3'15"	14/ 14	EC	COMPLETED 14400

TOTAL 0:03'15" 14

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Toronto Vancouver Calgary Edmonton Markham Waterloo Region Whitehorse Washington, D.C.

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Barristers & Solicitors, Patent & Trade Mark Agents

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Tel: 519.579.3661 Ext. 326 (Direct)
Fax: 519.576-2030 (Direct)
www.millerthomson.com

DATE: January 14, 2004
TO: U.S. Commissioner of Patents
Reginald Alexander, Examiner, Group Art Unit 1761
FAX NO.: (703) 872-9306
SUBJECT: Application Serial # 10/054,893
FROM: Daryl W. Schnurr **DIRECT LINE:** 579-3661 ext 326
PAGES: 14 **(INCLUDING THIS PAGE) DIRECT FAX:** 519-576-2030
Please notify Bonnie at Ext. 317 immediately if all pages are not received

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COMMENTS:

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MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade Mark Agents

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Kitchener, ON, Canada N2G 4A2
Tel: 519.579.3661 Ext. 326 (Direct)
Fax: 519.576-2030 (Direct)
www.millerthomson.com

DATE: January 14, 2004

TO: U.S. Commissioner of Patents
Reginald Alexander, Examiner, Group Art Unit 1761

FAX NO.: (703) 872-9306

SUBJECT: Application Serial # 10/054,893

FROM: Daryl W. Schnurr **DIRECT LINE: 579-3661 ext 326**

PAGES: 14 (INCLUDING THIS PAGE) **DIRECT FAX: 519-576-2030**

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Jan 14 - 10:13
Bonnie R

Auto-Reply Facsimile Transmission



TO: Fax Sender at 5197432540

Fax Information

Date Received: 1/14/2004 9:53:00 AM [Eastern Standard Time]

Total Pages: 14 (including cover page)

TO: AU

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MILLER THOMSON LLP

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Tel: 519.579.2661 Ext. 328 (Direct)
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DATE: January 14, 2004
TO: U.S. Commissioner of Patents
Reginald Alexander, Examiner, Group Art Unit 1761
FAX NO.: (703) 872-9306
SUBJECT: Application Serial # 10/054,893
FROM: Daryl W. Schnurr * **DIRECT LINE:** 579-3661 ext 326
PAGES: 14 (INCLUDING THIS PAGE) **DIRECT FAX:** 519-576-2030
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COMMENTS:

Further to our letter of December 22, 2003, a copy of which is attached, we have now received your fax number from Examiner Alexander and are therefore forwarding this to you by fax.

Toronto Vancouver Calgary Edmonton Markham Waterloo Region Whitehorse Washington, D.C.
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EXHIBIT "D"



DIRECT TEL: 519.579.3661 EXT 326
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August 5, 2003

File No. 58348.0002

Onward Multi-Corp Inc.
585 Kumpf Drive
Waterloo, Ontario
N2V 1K3

Dear Sirs:

Attention: Mr. Ted Witzel, President

**RE: United States Patent Application for
Flavor Wave Plate for Barbecues and Combination of
Flavor Wave Plate and Barbecue
D. Schnurr former file 39452**

We confirm that a Reply to the most recent Office Action received from the Patent Office in this matter was sent to the U.S. Patent Office on June 10, 2003 for filing.

A copy of the Office Action and our Reply thereto are enclosed for your file.

At this time, we also enclose our account for our services rendered in connection with the preparation and filing of said Reply.

We shall report to you when a further communication is received from the Patent Office.

Yours very truly,

MILLER THOMSON LLP

Per:
Daryl W. Schnurr

DWS/br
encl.